FILED
DEC 31 1987
JOSEPH F. SPANIOL, JR.
CLERK

No. 87-846

IN THE

Supreme Court of the United States

OCTOBER TERM, 1987

IN RE KENDAVIS HOLDING COMPANY AND KENDAVIS INDUSTRIES INTERNATIONAL, INC.,

Debtors

K. W. DAVIS, JR., ALANA LAWLER, ALANA LAWLER TRUST "A", A. T. DAVIS, A. T. DAVIS TRUST "A", KAY DAVIS, KAY DAVIS TRUST "A", TRICIA KAE LAWLER, ALANA LAWLER CHILDREN'S TRUST, ALLEN KENNETH DAVIS, JANIECE BREANNE DAVIS, A. T. DAVIS CHILDREN'S TRUST, KAY DAVIS CHILDREN'S TRUST, T. C. DAVIS, II, T. C. DAVIS, II TRUST, T. C. DAVIS, II TRUST "A", T. C. DAVIS, II TRUST "A" DATED JANUARY 15, 1982, BRIAN KEITH DAVIS, BRIAN KEITH DAVIS TRUST, BRIAN KEITH DAVIS TRUST "A", BRIAN KEITH DAVIS TRUST DATED JANUARY 15, 1982, CHESLEY DAVIS, CHESLEY DAVIS TRUST, TREY DAVIS, TREY DAVIS TRUST, KEN W. DAVIS FOUNDATION AND TWALLA DUPRIEST, TRUSTEE FOR ESTATE OF T. C. DAVIS,

Petitioners

v.

THE OFFICIAL UNSECURED CREDITORS' COMMITTEES FOR KENDAVIS HOLDING COMPANY, KENDAVIS INDUSTRIES INTERNATIONAL, INC. AND LOFFLAND BROTHERS COMPANY, KENDAVIS HOLDING COMPANY, FEDERAL DEPOSIT INSURANCE CORPORATION, THE BANK OF NOVA SCOTIA AND MBANK HOUSTON, N.A.,

Respondents

RESPONDENT OFFICIAL UNSECURED CREDITORS' COMMITTEES SUPPLEMENTAL BRIEF IN OPPOSITION TO PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT

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No. 87-846

IN THE
SUPREME COURT OF THE UNITED STATES
OCTOBER TERM, 1987

K. W. DAVIS, JR., ET AL.,

Petitioners

v.

THE OFFICIAL UNSECURED CREDITORS' COMMITTEES, ET AL.,

Respondents

RESPONDENT OFFICIAL UNSECURED CREDITORS' COMMITTEE'S SUPPLEMENTAL BRIEF IN OPPOSITION TO PETITION FOR WRIT OF CERTIORARI

Respondent Official Unsecured Creditors' Committees of Kendavis Holding Company, Kendavis Industries International, Inc. and Loffland Brothers Company (the "Respondent Committees") respectfully submit the following Supplemental Brief pursuant to Rule 22.6 of the Rules of the Supreme Court for the United States.

Shortly after filing the Respondent Unsecured Creditors' Committees' Brief In Opposition to Petition for Writ of Certiorari to the United States Court of Appeals for the Fifth Circuit, the undersigned discovered that an order and memorandum of decision were entered by a trial judge which may affect the status of *NEC Corp. v. Intel Corp.*, 654 F. Supp. 1256 (N.D. Cal. 1987), *mand. docketed,* No. 87-7126 (9th Cir. Mar. 30, 1987),[1] cited in the following, to wit: (i) Respondent Committees' Brief in Opposition to Petition for Writ of Certiorari to the United States Court of Appeals for the Fifth Circuit at 9 and 10; (ii) Respondent Kendavis Holding Company's Brief in Opposition to Petition for Writ of Certiorari at 9, 18 and 19;

[1] The order of recusal may render the mandamus action to the Ninth Circuit moot.

and (iii) Petitioners' Petition for Writ of Certiorari to the United States Court of Appeals for the Fifth Circuit at 17 n.26. *See* R.Supp.App.-1a for a copy of the court's memorandum of decision.

Neither the memorandum of decision nor the order of recusal state the statutory grounds for the court's recusal. *See* R.Supp.App.-1a and 2a. Therefore, because Respondent Committees are not aware of any of the factual circumstances surrounding the court's recusal in *NEC v. Intel,* Respondent Committees are not in a position at this time to comment further.

Respectfully submitted,

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APPENDIX

IN THE
UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

NEC CORPORATION, a Japanese corporation, and NEC ELECTRONICS INC., a California corporation,

Plaintiffs,

v.

INTEL CORPORATION, a California corporation,

Defendant.

No. C-84-20799-WAI

ORDER OF RECUSAL

I, the undersigned Judge of this court, finding myself disqualified in the above-entitled matter within the meaning of (F)(2) of the Assignment Plan of this court, request that this case be reassigned.

All orders previously made and entered in the above-entitled action are vacated and set aside.

Dated: December 15, 1987

/s/ WILLIAM A. INGRAM

William A. Ingram
United States District Judge